

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

TIMOTHY HOWARD JOHNSON,
Petitioner,
vs.
ROBERT LeGRAND, *et al.*,
Respondents.

Case No. 3:15-cv-00258-HDM-WGC
ORDER

This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 by a Nevada state prisoner.

By order filed December 15, 2015, the Court informed petitioner that the petition is subject to dismissal as successive for failure to comply with 28 U.S.C. § 2244(b). Section 2244(b) requires that a petitioner seeking to file a “second or successive” habeas petition must first obtain authorization from the federal Court of Appeals to do so. This Court’s order of December 15, 2015, granted petitioner thirty days to submit any proof he might have to demonstrate that he obtained leave of the Court of Appeals to present this successive petition. The order specified that if petitioner is unable to demonstrate that he obtained permission of the Court of Appeals, the Court will enter an order dismissing the successive petition. (ECF No. 5).

On December 28, 2015, petitioner filed a letter with the Court seeking the identity of the person who submitted the instant habeas petition to this Court. (ECF No. 6). Petitioner is informed


1 that the petition in this action was submitted by Timothy H. Johnson, inmate #23766, at Lovelock
2 Correctional Center. (ECF No. 1-1, at p. 1). The petition is signed by Timothy H. Johnson. (ECF
3 No. 1-2, at p. 1). If petitioner wishes to withdraw his petition, he may do so by filing a notice of
4 voluntary dismissal pursuant to Rule 41(a) of the Federal Rules of Civil Procedure. If petitioner
5 wishes to proceed with this action, he must submit any proof he might have to demonstrate that he
6 has obtained leave of the Court of Appeals to present this successive petition. The Court will grant
7 petitioner additional time in which to do so, as set forth below.

8 **IT IS THEREFORE ORDERED** that within **twenty (20) days** of the date of entry of this
9 order, petitioner **SHALL SUBMIT** any proof he might have to demonstrate that he has obtained
10 leave of the Court of Appeals to present this successive petition. If petitioner is unable to
11 demonstrate that he has obtained permission of the Court of Appeals, the Court will enter an order
12 dismissing the successive petition.

13 **IT IS FURTHER ORDERED** that if petitioner does not wish to proceed with this action,
14 he shall file a notice of voluntary dismissal pursuant to Rule 41(a) of the Federal Rules of Civil
15 Procedure within **twenty (20) days** of the date of entry of this order.

16 **IT IS FURTHER ORDERED** that the Clerk of Court shall send petitioner a copy of the
17 CM/ECF docket printout for this case.

18 Dated this 30th day of December, 2015.

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21 HOWARD D. McKIBBEN
22 UNITED STATES DISTRICT JUDGE
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